

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House
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FISCAL IMPACT STATEMENT

LS 6448

BILL NUMBER: HB 1101

DATE PREPARED: Mar 18, 2002

BILL AMENDED: Mar 14, 2002

SUBJECT: Various Election Law Changes.

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FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: (CCR Amended) This bill makes the following changes to election law:

- (1) Requires the Election Commission to formulate a statement of a "voter's bill of rights".
- (2) Permits certain voters whose registration is in question to cast a provisional ballot.
- (3) Permits any voter to cast an absentee ballot in the office of the circuit court clerk or satellite offices.
- (4) Permits military and overseas voters to submit absentee ballots by fax under certain circumstances.
- (5) Expands the definition of absent uniformed services voter to include a member of the Indiana National Guard deployed outside Indiana.
- (6) Makes other changes relating to casting absentee ballots.
- (7) Removes language that permits the use of noncompliant voting systems under certain circumstances.
- (8) Provides for the use of voting systems that furnish a practical and effective means for voters with disabilities to cast ballots in private.
- (9) Requires that if a voting system is able to demonstrate to the voter whether the voter's ballot has overvotes, that function of the voting equipment actually in use in a precinct must be operable.
- (10) Permits a county election board to eliminate certain precinct election offices and to allow individuals between 16 and 18 to serve as poll clerks and election sheriffs under certain circumstances.

(11) Establishes the time that electronic filing of certain campaign finance reports is considered to have occurred.

(12) Changes the total number of signatures that a candidate for President of the United States, United States Senator, or Governor is required to obtain to qualify for placement on the ballot.

(13) Requires an individual who registers to vote to provide the last four digits of the individual's Social Security number under certain circumstances.

(14) Makes changes in the process for organizing and disbanding of political committees.

(15) Corrects an erroneous reference in a statute relating to absentee voting.

(16) Changes criteria for determination of the political affiliation of an appointee to a local board.

(17) Authorizes the Election Commission to adopt rules to update standards for voting systems.

(18) Allows precinct boundaries to cross a city boundary in certain circumstances.

(19) Repeals superceded statutes relating to: (A) registration of absent uniformed services voters and overseas voters; and (B) the counting of absentee ballots at a central location. This bill makes changes to election law concerning the following:

Effective Date: (CCR Amended) July 1, 2002; January 1, 2003.

Explanation of State Expenditures: (Revised) (1) The bill requires the Election Commission to prescribe the Voter's Bill of Rights. The Commission may require copies of the Voter's Bill of Rights to be distributed with voter registration materials or other materials given to voters. It is estimated that the printing and distribution costs of the Voter's Bill of Rights may not be absorbable in the FY 2003 budget year. The Commission may require additional funds in future budget years for this provision. Posting of the Voter's Bill of Rights on the web site of the Secretary of State or other state web sites is expected to generate no additional cost to the state.

The Secretary of State would also be required to request the Indiana news media to include a copy of the Voter's Bill of Rights in a public service announcement (PSA). Production of a minimal PSA is estimated in a range of \$500 to \$600. A minimal PSA could include still frames with a background narrator or voice over. An upper-end PSA requiring camera time with an actor or actress, animated logos, lighting, and editing would require additional expenditures. It is estimated that production of an upper-end PSA could require expenditures ranging from \$2,000 to \$20,000.

(2) This section of the bill would require the Election Division to print and ship provisional ballots for state offices, United States Senator, United States Representative, the President of the United States (in Presidential election years), and public questions concerning the retention of a judge of the Indiana Supreme Court or Indiana Court of Appeals to county circuit court clerks or the director of the board of elections in registrations (for certain counties). The Election Division is already required to print ballots for certain general elections under current law. There will be some additional expenditures to the Election Division to provide provisional ballots to counties. As more counties adopt electronic voting systems that do not require paper ballots, the impact of this provision would subside. Currently, unused funding for printing of ballots

by the Division is reverted to the state General Fund. The Election Division printed approximately 250,000 ballots at \$0.25 per ballot for the 2000 general election (250,000 X \$0.25 = \$62,500). The Election Division would be required to send the provisional ballots by certified mail. Rates for certified mail are as follows: \$2.10 for certification and \$0.34 for first class postage. If mail weighs more than an ounce, \$0.23 is charged for each additional ounce.

As of January 2, 2002, the Election Division had 13 full-time positions, one vacant (full-time), and one intermittent position.

Penalty Provision: Under the bill, a provisional ballot counter that knowingly causes a vote to be incorrectly taken down for a candidate or public question or makes a false statement, certificate, or return of any sort for that vote commits a Class D felony. Additionally, if a provisional ballot counter knowingly opens or marks a ballot (unless allowable by law) or attempts to know the vote of the voter before a ballot is put in a ballot box, or cast on a voting machine, electronic voting system, or ballot card voting system, the provisional ballot counter commits a Class D felony.

A Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor depending upon mitigating and aggravating circumstances. The average expenditure to house an adult offender was \$22,131 in FY 2000. Individual facility expenditures ranged from \$16,442 to \$40,312. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the average cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner. The average length of stay in Department of Correction (DOC) facilities for all Class D felony offenders is approximately ten months.

(8) The Election Commission would be required to determine whether a voting system is accessible enough for voters with disabilities to be able to cast a vote in private. The Commission could incorporate the examination of voting systems under this basis in the course of business of a normally scheduled business meeting.

(11) This provision could change the timing as to when a candidate files a campaign finance report. This provision could save Indiana Election Division (IED) staff resources for other administrative uses. Under current law, candidates that file electronically do so by submission of a disk containing the candidate's report. The current process requires IED staff to physically print a hard copy of and time stamp each report.

(12) The IED would require minor expenditures in order to update petition forms.

(13) Currently, state form 50504 has a space and check box provided to indicate and report the last four digits of the registering voter's social security number. This provision should have no fiscal impact.

(14) Under current law the Indiana Election Division (IED) or a county election board (CEB) may begin a proceeding with the Indiana Election Commission (IEC) to disband a candidate committee. The bill changes the provision to include the following conditions for disbandment: the candidate committee has not filed any report of expenditures during the previous three calendar years; the candidate committee last reported cash on hand in an amount that does not exceed \$1,000.

Current law does not allow for disbandment if the committee owes debts to any person other than a civil penalty assessed by the IEC or CEB, or if the candidate was also the committee's chairman/treasurer. When a proceeding occurs, the IED or CEB is required to provide notice via certified mail to the chairman and

treasurer of the committee named in the proceeding. Rates for certified mail are as follows: \$2.10 for certification and \$0.34 for first class postage. If mail weighs more than an ounce, \$0.23 is charged per each additional ounce.

Historically, the IEC has disbanded four to five candidate committees per year. On average, 20 to 40 candidate committees file pre-primary and pre-general election campaign finance reports late, and between 50 to 70 candidate committees file late annual campaign finance reports. The IED can assess a civil penalty for failure to file. The maximum penalty that may be assessed is \$1,000. In FY 2001, \$15,104 in civil penalties were assessed by the IED. Under the bill, the IED would be able to disband candidate committees that IED no longer has communication with.

Under the bill, the IEC or the CEB may waive outstanding civil penalties imposed previously by the IEC or CEB. Additionally, if the dissolution of a candidate committee goes forward, any surplus contributions must be distributed to either a regular party committee(s), another candidate committee(s), to the contributors pro rata, a federal income tax exempt organization, or the IEC.

The IED must arrange for publication in the Indiana Register any orders to administratively disband a committee. A CEB must publish a notice to the same effect. Under P.L. 64-1995, basic publishing charges are by the line with squares of 250 ems. Before January 1, 1996, the rate was \$3.30 per square for the first insertion in a newspaper or qualified publication plus \$1.65 per square for each additional insertion in a newspaper or qualified publication. After December 31, 1995, and before December 31, 2005, a newspaper or qualified publication may, effective January 1, increase the basic charges by 5% more than the basic charges that were in effect during the previous year. However, the basic charges for the first insertion of a public notice in a newspaper or qualified publication may not exceed the lowest classified advertising rate charged to advertisers by the newspaper or qualified publication for comparable use of the same amount of space for other purposes. An additional charge of 50% is allowed for the publication of all public notice advertising containing rule or tabular work.

The impact of this provision is indeterminable and would depend on the increase or reduction of the amount of proceedings filed as a result of the bill.

(17) This provision allows the Election Commission to adopt rules concerning more recent standards for voting equipment. The provision, if the Election Commission choose to meet to adopt new rules should have a minimal impact to state expenditures. The Commission could incorporate hearings on new rules during the course of a regularly scheduled business meeting.

Explanation of State Revenues: (Revised) (2) *Penalty Provision:* If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class D felony is \$10,000. Criminal fines are deposited in the Common School Fund. If the case is filed in a circuit, superior, or county court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund.

(14) As described in *Explanation of State Expenditures*, if more civil penalties are waived by the IED as a result of the bill, fewer fees resulting from civil penalties would be collected.

Explanation of Local Expenditures: (Revised) (2) The circuit court clerk will be required to estimate the number of provisional ballots required to vote in the county. Provisional ballots not printed by the Election

Division, as described under *Explanation of State Expenditures*, would be required to be printed under direction of county election boards. After estimation of the number of ballots necessary, the county election board would be required to have the ballots printed. Each provisional ballot must be signed by the circuit court clerk or their designate. The impact of this provision is unknown and will vary by county.

The bill would also allow the county election board to contract with a state university or college to dispose of the ballots for the purpose of election research.

Penalty Provision: If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. The average cost per day is approximately \$44.

(4), (5), (6) These provisions would save certain mailing costs to circuit court clerks and county election boards by faxing either general election or special election absentee ballots. With respect to absent uniformed services voters or overseas voters, sending a fax of an absentee ballot could significantly reduce the transaction cost of the ballot for election boards.

Absentee ballot forms may need to be revised in order to reflect these changes and to provide proof of residency and qualification to vote.

Precinct election officers could have minimal increase in duties to compare signatures and process voter certification and affidavits at the polls. Additionally, county election boards may require more administrative time to certify transmitted affidavit signatures.

This provision would require additional administrative time to the circuit court clerk's responsibilities. Additional expenditures may be necessary to cover the cost of mailing an affidavit to the board of registration.

The county election board would be required to send confirmation that an absentee uniformed services ballot has been received either by fax or electronic mail. However, if neither a fax number or electronic mail address is provided, the board would have to send confirmation by United States mail.

(8) Depending on any future rulings by the Election Commission regarding the accessibility of current voting systems, future local purchases of voting systems could be influenced, or existing voting systems that are currently acceptable for use may be ruled as unacceptable. Additional or replacement components either purchased, leased, or lease-purchased of a voting system in place by a county before January 1, 2005, would be exempt from this provision.

(9) Under this provision, effective January 1, 2003, a voting system in use in a precinct that is capable of demonstrating to the voter that she/he has overvoted on a ballot or has cast votes both in favor and in opposition of a public question, must be utilized during an election. Additionally, if the voting system in use can inform the voter how to correct the above mentioned ballot errors, it is required to do so. If a system in use cannot inform a voter on the correction of such a mistake, information for correction must be provided on or near the components of the voting system where the voter casts the vote. The impact of this provision will vary by county and depend on the capability of the voting system. The provision would effectively present a minimal impact to the counties employing either lever machine or optical-scan voting systems on January 1, 2003.

Under P.L. 239-2001, the 35 counties that employed punch-card voting systems during the 2000 general

election must adopt an approved voting system. Current law already requires the Election Commission to no longer approve a punch-card voting system after June 30, 2001. Also under current law (P.L. 239-2001), the state may provide a 50% match for the purchase, lease, or lease purchase of voting equipment by a county if necessary approval has been attained from the Budget Agency. Current law also covers 50% from the VSIF for the upgrade of existing voting systems. Given that statute already requires the conversion of punch-card counties, this provision of the bill should not incur an additional fiscal impact to remaining to optical scan counties, except for the printing of conspicuous instructions, if necessary, near the voting machines. Lever counties could choose to replace their voting machines regardless of this provision, hence the provision should not have a direct impact to these counties, other than the printing of conspicuous instructions near the voting equipment. If this provision is interpreted that existing DRE counties that do not have the necessary software to demonstrate overvotes and public question voting errors to a voter, those respective counties may have to purchase the necessary software.

Background: Under P.L. 291-2001, the General Assembly appropriated from the Build Indiana Fund \$4 M for local election equipment matching grants and \$5 M for local election and voter registration equipment. As mentioned above, no funds have yet been transferred to either the VSEF or VSIF.

(10) This provision could provide a savings to counties if precinct sheriffs and/or poll clerks are eliminated. An ordinance must be adopted by the county election board for all or certain specified precincts in the county to eliminate sheriffs and poll clerks. The specific impact of this provision is indeterminable and depends on local action.

Background: Under current law, precinct election officers are appointed by the county election board, except in Lake and Tippecanoe County where the officers are appointed by a combination of an election board and registration board. For all elections except certain municipal elections, the county executive fixes a per diem allowance to the following precinct election officers:

Type of Officer	Number
Inspector	1
Judge	2
Poll Clerk	2
Sheriff	2
Asst. Poll Clerk	2 (Optional)

The county executive is also allowed under current law to set a meal allowance (if an ordinance allowing a meal allowance has been adopted by the county) for the above listed precinct election officers on election day. In addition, an inspector can receive additional compensation for the duties of acquisition and return of election supplies to the circuit court clerk's office. For municipal elections in towns with a population of less than 3,500 with the municipality located outside of Marion County, the town fiscal body fixes compensation. As of the 2000 general election, 5,530 precincts officially existed in Indiana.

(14) See *Explanation of State Expenditures*.

(18) If a large number of precincts in a county are effected by this provision, the county could experience

an impact to expenditures. The amount of impact is indeterminable, would depend on local action, and would vary by county.

Explanation of Local Revenues: (Revised) (2) *Penalty Provision:* If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. (2) A \$3 fee would be assessed and, if collected, would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed and, if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

State Agencies Affected: Indiana Election Division, Indiana Election Commission.

Local Agencies Affected: County election board; circuit court clerk; board of voter registration.

Information Sources: Spencer Valentine, Co-Director & Kristi Robertson, Co-Counsel, Indiana Election Division, (317) 232-3939; Jamie Berns, Production Manager, WXIN 59, (317) 632-5900; *HRM Detail Staffing Report Position and Employee Totals, 1/02/2002*; U.S. Postal Service.